

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

MICHELINE CANTAVE,

Plaintiff,

-against-

INCARE HOME HEALTH CARE GROUP LLC,
HANNA WOLHENDLER, MARTIN SCHLOSSER,
BARUCH WOLHENDLER and CHANIE
WOLHENDLER,

Defendants.

Case No. 19-CV-01060 (DLI)(JO)

NOTICE OF MOTION

PLEASE TAKE NOTICE, that upon the accompanying Affirmation of Kimberly N. Dobson, dated May 13, 2019, including the exhibits annexed thereto, and Defendants' Memorandum of Law in Support of its Partial Motion to Dismiss, Defendants, by and through their attorneys, Littler Mendelson, P.C., will move this Court before the Honorable Dora Lizette Irizarry, at the United States District Courthouse, Eastern District of New York, 225 Cadman Plaza, Brooklyn, New York 11201, on a date and time to be designated by the Court, for an Order dismissing Plaintiff's: (1) Second Cause of Action ("Minimum & Spread of Hour Wages Under the NYLL"); (2) Fourth Cause of Action ("Overtime Wages Under the NYLL"); (3) Fifth Cause of Action ("Violation of NYLL's Record Keeping Requirements"); (4) Sixth Cause of Action ("Violation of NYLL's Time of Hire Wage Notice"); (5) Seventh Cause of Action ("Violation of NYLL's Pay Stub Requirement"); (6) Eighth Cause of Action ("Civil Damages for Fraudulent Filing of IRS Returns"); (7) Ninth Cause of Action ("Violation of N.Y. Gen. Bus. L. § 349"); (8) Tenth Cause of Action ("Breach of Contract [Third-Party beneficiaries of Wage Parity Act contract with the State of New York]"); (9) Eleventh Cause of Action ("Unjust Enrichment [Defendants' failure to pay all wages due, including, but not limited to, minimum wages under the Wage Parity Act and

spread of hours]”); (10) Twelfth Cause of Action (“Violation of Wage Parity Act Minimum Wage Requirement”); and, (11) Thirteenth Cause of Action (“Breach of Contract – Wages”), pursuant to Federal Rules of Civil Procedure 12(b)(6) for failure to state a claim, with prejudice, along with such other and further relief as the Court may deem just and proper.

Dated: May 13, 2019
Melville, New York

By: /s/ Kimberly N. Dobson

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